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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,731	08/19/2003	Masamichi Ebata	03500.017487	3791
5514	7590	07/08/2008	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				PATEL, CHIRAG R
ART UNIT		PAPER NUMBER		
2141				
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		07/08/2008		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/642,731	EBATA, MASAMICH	
	<b>Examiner</b>	<b>Art Unit</b>	
	CHIRAG R. PATEL	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 29 April 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,4,6-10,13 and 15-28 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,4,6-10,13 and 15-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 20-28 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 29, 2008 has been entered. Examiner notes that claims 2-3, 5, 11-12, and 14 are cancelled by the applicants and that claims 20-28 are withdrawn.

***Response to Arguments***

Applicant's arguments with respect to claims 1, 4, 6-10, 13, and 15-19 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6-10, and 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by McCannon et al. – hereinafter McCannon (US 6,607,314).

As per claims 1, 10 and 19, McCannon discloses an information processing apparatus that has multiple control programs for performing processing corresponding to printer functions, comprising:

a first obtaining unit configured to obtain, from a first print control module, version information on a version of the first print control module and printer type information on a printer type supported by the first print control module; (Col 6 lines 40-53; Further, while the latest version of printer driver 16 is shown stored in the memory of printer 10, this information may instead be abbreviated to include an indication of the latest version number of the printer driver and a pointer to the appropriate database 42 or 46 for obtaining a copy of that latest version. Fig 1: items 42, 46)

a second obtaining unit configured to obtain, from a second print control module, version information on a version of the second print control module and printer type information on a printer type supported by the second print control module; (Col 6 lines 40-53, Fig 1: items 42, 46)

a recording unit configured to, if the printer type information obtained by said first and second obtaining units are identical to each other, record the version information of the first print control module in correspondence with the printer type information as correspondence information if the version of the first print control module is newer than the version of the second print control module, and record the version information of the second print control module in correspondence with the printer type

information as correspondence information if the version of the second print control module is newer than the version of the first print control module; (Col 6 lines 40-53; Further, while the latest version of printer driver 16 is shown stored in the memory of printer 10, this information may instead be abbreviated to include an indication of the latest version number of the printer driver and a pointer to the appropriate database 42 or 46 for obtaining a copy of that latest version. Fig 1: items 42, 46)

a recognition unit configured to recognize printer type information on a printer type of a certain printer; (Col 7 lines 20-49)

a selection unit configured to automatically select the version information recorded in correspondence with the printer type information recognized by said recognition unit by referring to the correspondence information recorded by said recording unit; and (Col 7 lines 20-49)

an execution unit configured to execute one of the first and second print control modules for the version information selected by said selection unit. (Col 7 lines 20-49)

As per claims 6 and 15, McCannon discloses the information processing apparatus according to claim 1, further comprising a setting unit configured to set the print control module for the version information selected by said selection unit such that

the print control module can control the printer. (Col 7 lines 20-49, Fig. 3)

As per claims 7 and 16, McCannon discloses the information processing apparatus according to claim 6, further comprising a control unit configured to inhibit activation of a print control module for the version information that is not selected by said selection unit. (Col 7 lines 20-49; Alternatively, if the user elects not to update the driver, processing terminates, again at step 136 without downloading and installation of the revised device driver.)

As per claims 8 and 17, McCannon discloses the information processing apparatus according to claim 6, further comprising:

an identification unit configured to identify a first control program that controls the printer not based on a selection result by said selection unit and a second control program that controls the printer based on a result by said selection unit; and (Col 7 lines 20-49; Thus, if the user elects to update the device driver, this function is performed and the driver installed at step 134. Alternatively, if the user elects not to update the driver, processing terminates, again at step 136 without downloading and installation of the revised device driver)

an activation control unit configured to perform control such that the first control program is activated when said identification unit recognizes that the first control program exists. (Col 6 lines 5-28, iii) terminating output processing, loading and

installing the latest version of printer driver 16 from printer 10 to driver 38 of PC 30, and reinitiating output of a new GDI file from application 36 using the now updated driver 38 with normal processing following)

As per claims 9 and 18, McCannon discloses the information processing apparatus according to claim 6, wherein said setting unit recognizes that the print control module can control a printer among printers supported by the print control module when a database file exists that stores control conditions and control variables for the printer. (Col 6 lines 40-53; Figure 1: items 42, 46)

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCannon (US 6,607,314) in view of Gase et al. – hereinafter Gase (US 5,580,177).

As per claims 4 and 13, McCannon discloses the information processing apparatus according to Claim 1. McCannon fails to disclose wherein said recording unit records the correspondence information in a table format, including the printer type

information, the version information and identification information for the print control module. Gase discloses wherein said recording unit records the correspondence information in a table format, including the printer type information, the version information and identification information for the print control module. (Col 3 line 51 – Col 4 line 2) At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to disclose wherein said recording unit records the correspondence information in a table format, including the printer type information, the version information and identification information for the print control module in the disclosure of McCannon. The motivation for doing do would have been to allow central administration and updating of printer driver installations. (Col 2 lines 20-24)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R Patel whose telephone number is (571)272-7966. The examiner can normally be reached on Monday to Friday from 7:30AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public

PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

/C. R. P./  
Examiner, Art Unit 2141

/Jason D Cardone/

Supervisory Patent Examiner, Art Unit 2145